APPROVED: Meeting No. 05-93

ATTEST: Shand Brand

MAYOR AND COUNCIL ROCKVILLE, MARYLAND Meeting No. 03-93

February 1, 1993

The Mayor and Council of Rockville, Maryland, convened in General Session in the Council Chamber, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland, on February 1, 1993, at 7:30 p.m.

PRESENT

Mayor Douglas M. Duncan

Councilmember James F. Coyle

Councilmember Rose G. Krasnow

Councilmember James T. Marrinan

ABSENT

Councilmember David Robbins (Sick Leave)

In attendance: City Manager Bruce Romer, City Clerk Sharon Gran and City Attorney Paul Glasgow.

Re: City Manager's Report

- 1. For the second year in a row, the City has been awarded the Government Finance Officers Association Award for Distinguished Budget Presentation. The City has been honored with this distinction two years in a row. The actual presentation will come at a later time.
- 2. On February 23, the City has scheduled a public hearing on the proposed transition and redevelopment agreement covering the future activities of Rockville Mall.
- 3. The Mayor and Council have another general session on February 8, and the worksession on FY94 budget issues will follow.

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Re:

Presentation of Certificate of Recognition to the Rockville Power Squadron for their contributions to the Santa's Helpers Program.

D. Roger Picard and Kay Johns of the Rockville Power Squadron were presented with a plaque in appreciation of their contributions to the Santa's Helpers program. This year, 127 children from the David Scull, Maryvale and Lincoln Park communities received gifts, and, in addition to monetary gifts, the Rockville Power Squadron assisted in buying, wrapping and delivering the gifts. Thank you cards from the children were also presented.

Re:

Recognition of Charles L. (Lee) Maust for his volunteer efforts in providing training to the City's basketball coaches and improving the overall quality of Rockville's Youth Basketball Program.

Lee Maust, head basketball coach at Richard Montgomery High School, was recognized by the Mayor and Council for his volunteer efforts in conducting basketball clinics for the youth basketball coaches. He was presented with a plaque expressing the City's appreciation for his services in improving the overall quality of Rockville's Youth Basketball Program.

Re: Citizens Forum

At this time, the Mayor opened the meeting to hear from any citizen who wished to address the Mayor and Council.

1. Richard Haight, former City Councilman, addressed the proposal of RCI for demolition of the mall and redevelopment of Town Center. While he fully supports the demolition of the current Rockville Mall, he expressed uncertainty as to success of future commercial

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development in the Town Center.

- 2. Barry Klein, Rose Hill Falls resident, expressed concern that his development receives trash service only once a week. He had previously resided in New Mark Commons and is well aware of the excellent service (twice a week trash pick-up) provided by the City and feels that every resident of the City is entitled to the same services.
- 3. Joel Friedman, Rose Hill Falls resident, also expressed concern with the fact that he and his neighbors receive trash pick-up service only once a week.
- 4. William Kominers, on behalf of Tower-Dawson Partnership, noted that questions had been raised by a resident at an earlier meeting of the Mayor and Council regarding the application to amend Tower Oaks Concept Plan. The original plan called for the construction of the Cabin John Lake on the property in accordance with the City's master plan dating back to 1970. The City, in November 1991, determined it would no longer support stormwater management on the Tower Oaks property in the form of a lake. This amendment deletes the lake from the Concept Plan and replaces it with a future stormwater management facility.
- 5. Rich Archer, 310 Croydon Avenue, as Chairperson of the Animal Matters Board, noted that amendments to the Animal Control Ordinance are being introduced tonight. It has been over a year since the adoption of the new animal control regulations, and he feels that the proposed changes should be effective.

It was decided that interested individuals would be given one month to comment on the proposed changes prior to adoption by the Mayor and Council.

Councilmember Coyle inquired as the status of the off-leash program. Mr. Archer responded that the Board feels that it is appropriate to test the animal and owner each year, and the

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one-year renewal would remain in place. Councilmember Coyle was also informed that the most prevalent issue for the Animal Matters Board has been noise, that is, dogs barking too often and too loud.

6. Bill Surgi, 1704 McAuliffe Drive, as a member of the World War II 50th Anniversary Committee, requested that the 50th anniversary be observed by the City of Rockville in conjunction with other City events. He also requested that the Mayor and Council appoint a commemoration committee to plan activities for the remaining years of the commemoration.

Mayor Duncan responded that the Mayor and Council would be happy to participate and will be appointing a committee.

7. Michael Gewirtz, 1520 Columbia Avenue, noted that he was not able to attend the public hearing on Map Amendment Application M-59-92, Joseph A. Lynott, Jr., attorney for Marlo Furniture Company, Applicant, and wished to comment on the application. Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, the hearing record for Map Amendment Application M-59-92, was reopened to include Mr. Gewirtz's comments and closed immediately thereafter.

While Mr. Gewirtz encourages Marlo's expansion into Rockville, he does not feel that the site, which is the subject of this application, is appropriate. In view of the proximity of Richard Montgomery High School, he feels that a commercial establishment of this magnitude would isolate the high school from the community.

In addition to creating a potential policing problem, Mr. Gewirtz feels that such a development would undercut the program envisioned for the Town Center. He favors mixed use development to expand the reach of the Town Center and to encourage people to walk back and forth.

8. William Meyer, 804 Leverton Road, referenced item number 12 on the agenda, Discussion and Instructions to Staff - Street Closing and Abandonment Application SCA-67-92, and indicated he hopes that the Mayor and Council will reject the application. The illegal activity has been eliminated, and it is totally inappropriate to close the street because of an illegal use.

There being no other citizens wishing to be heard, the Mayor closed the Citizens Forum portion of the meeting.

Re: Appointments

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, David Celeste, Jr. was appointed to fill the unexpired term on the Board of Supervisors of Elections, which term expires on June 1, 1996.

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, Harriet Margolis was appointed to a one-year term as Chairperson of the Economic Development Council.

Re: Approval of Minutes

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, the minutes of Meeting No. 01-93 (January 11, 1993) were approved, as amended.

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, the minutes of Meeting No. 02-93 (January 19, 1993) were approved, as written.

Re: Consent Agenda

Councilmember Coyle requested the removal of Item C, Mayor Duncan requested that Item D be removed, and Councilmember Krasnow requested the removal of Items E and F from the Consent Agenda. Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the following Consent Agenda items were approved:

A. Award of Contract for acoustical panels and modular furniture to Systems Furniture Gallery in the amount of \$52,373.65.

Sufficient funds have been budgeted for this bid award.

B. Approval of the purchase of a hydraulic shoring system design, equipment and training from ICON Equipment Distributors, Inc. in the amount of \$40,469.20.

Sufficient funds have been budgeted for this purchase.

G. Adoption of Resolution No. 04-93, the full text of which can be found in Resolution Book No. 10 of the Mayor and Council, permitting W. Thomas Lock, Jr. and Judith H. Lock, 2 Orchard Way South, to retain a brick mailbox structure on the street right-of-way in front of their property.

The Locks have executed an agreement between themselves and the City in which they assume all liability associated with the structure.

H. Adoption of Resolution No. 05-93, the full text of which can be found in Resolution Book No. 10 of the Mayor and Council, to adopt rules regarding the conduct of persons attending Mayor and Council meetings and the videotaping, televising, photographing, broadcasting or recording of its meetings.

The State Open Meetings Act which became effective on July 1, 1992,

requires public bodies to adopt rules regarding the conduct of meetings. These rules shall also govern the open meetings of all boards, commissions and other public bodies appointed by the Mayor and Council that have not adopted their own rules governing the conduct, recording, photographing and broadcasting of open meetings.

I. Introduction of Ordinance to amend Chapter 3, "Animals" of the Rockville City Code.

These amendments are designed to address issues and concerns raised at the one-year review of the Animal Control Ordinance.

J. Receipt of financial reports summarizing the results of City operations for the period from July 1, 1992 through December 31, 1992.

Re: Award of Bid No. 31-93 for purchase of one Paratransit/
Passenger Bus from Colonial Equipment Co.,
Mt. Airy. Maryland, for the low bid of \$48,736.

This will provide a replacement bus for the Recreation and Parks Department, and there are sufficient funds budgeted for this bid award.

Councilmember Coyle had requested removal of this item (C) from the Consent Agenda to inquire as to the disposition of the vehicles currently in use. The City Manager responded that

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vehicles are normally sold at auctions. The revenues are not deposited into a separate vehicle account but, rather, are shown on a citywide basis in the same manner as expenditures for purchase.

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, Bid No. 31-93 was awarded for the purchase of one Paratransit/Passenger Bus from Colonial Equipment Co., Mt. Airy, Maryland, for the low bid of \$48,736.

Re:

Motion to authorize the execution of a Mutual Aid Agreement with the Police Departments of the City of Gaithersburg and Maryland-National Capital Park and Planning Commission.

This Mutual Aid Agreement sets forth an agreement in principle between the Police Departments with respect to providing police services to the citizens within their respective jurisdictions.

Mayor Duncan had requested the removal of this item (D) from the Consent Agenda to request a description of the agreement. Chief Treschuk commented that this is a good way for police agencies to share resources; it is part of the total Montgomery County mutual aid packet wherein all agencies sign mutual aid agreements; and it is part of the national accreditation program.

A list of equipment to share and loan to one another is included. As an example, last summer, the City borrowed one of the Park Police motorcycles for a parade.

Mayor Duncan noted that this is a major public safety enhancement.

Councilmember Coyle was advised that this agreement goes a little further in terms of sharing resources in times of need than the Metropolitan Washington Council of Government's

agreement which focuses on emergency situations.

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, authorization to execute a Mutual Aid Agreement with the Police Departments of the City of Gaithersburg and Maryland-National Capital Park and Planning Commission was approved.

Re: Acceptance of Text Amendment Application T-133-93, Rockville Planning Commission, Applicant.

This application requests amendment to the parking design standards of the Zoning Ordinance to delete compact car parking spaces and provide a new uniform parking space size.

Councilmember Krasnow indicated that this is an excellent idea and wondered if the language of the ordinance indicating that additional space gained would be used for internal landscaping was a new feature.

Staff responded that while they attempt to inject internal landscaping in parking lots, the current regulations do not mandate it. In connection with pedestrian walkways in parking facilities, staff advised that standards for these walkways have not yet been finalized.

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, Text Amendment Application T-133-93, Rockville Planning Commission, Applicant, was accepted for processing by the Mayor and Council.

Re: Approval to change the name of the Rockville Civic Center Mansion to "Glenview Mansion at the Rockville Civic Center

Park" in order to bring public attention and recognition to its history and nature of the facility.

Councilmember Krasnow had requested removal of this item (F) from the Consent Agenda to indicate her support for this name change and also to ask if there is concern that the mansion may lose its identity as a City of Rockville facility. It is essential that the mansion's affiliation with the City remain known.

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, the Mayor and Council approved the change of name of the Rockville Civic Center Mansion to "Glenview Mansion at the Rockville Civic Center Park."

Re: Award of RFP No. 60-93 to the Montgomery County Association of Realtors, Inc. for the operation and administration of the City's affordable housing program for first-time homebuyers.

The Mayor and Council, on November 9, 1992, a p p r o v e d t h e recommendations of the Affordable Housing Demonstration Program Task Force to solicit proposals from qualified nonprofit organizations to operate and administer an affordable housing program as set forth in the Task Force's report.

The City Manager advised that the City recently concluded a request for proposal process on the Affordable Housing Demonstration Program to select an entity to carry it forward. The

Montgomery County Association of Realtors has been recommended as the non-profit organization to operate and administer the affordable housing program for first-time homebuyers as a result of an open and competitive process.

Representatives from the Montgomery County Association of Realtors (Pat Kane, President, and Tim Knobloch) were present and indicated that they are looking forward to working side by side with the City in this important endeavor.

(Mayor Duncan left the Chamber for a brief period of time. Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, Councilmember Coyle was designated as Mayor Pro Tem until Mayor Duncan's return.)

Councilmember Coyle inquired as to the cost of administering the program, noting that the City is to provide \$75,000 per year for five years for down payment and settlement cost assistance and \$145,000 for infrastructure and related costs in conjunction with the development of new affordable housing for first-time homebuyers.

Staff responded that the Task Force recommendation was that the parameters for use of the \$145,000 be intentionally left vague so as to accommodate whatever particular improvements are required at each site. The costs of new development would depend upon the topography of a particular piece of property and may include grading work, extending utilities, landscaping, etc. The administrative body would determine what needs to be done, and Councilmember Coyle noted that it is important that the Association of Realtors understands that they have the City's imprimatur for these decisions.

Discussion followed regarding the frequency and types of reports that would be provided regarding this program. Reports would be provided annually, or on a more frequent basis if needed. Important milestones would be featured in FYI.

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed

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(Mayor Duncan had not returned), Request for Proposal No. 60-93 was awarded to the Montgomery County Association of Realtors, Inc. for the operation and administration of the City's affordable housing program for first-time homebuyers.

Re: Adoption of Moderately
Priced Housing Regulations
for administration of
Rockville's MPDU

Ordinance.

Chapter 13.5 of the Rockville City Code, commonly known as the MPDU Ordinance, requires 12.5% moderate income housing in new developments exceeding 50 units.

The City Manager reported that adoption of these regulations relate to the Moderately Priced Dwelling Unit Ordinance adopted some time ago. It is a logical follow-up to the ordinance and does apply to developments with 50 or more units, 12.5% of which must be moderately priced. The standards were modeled closely after those of Montgomery County.

Councilmember Coyle referenced the eligibility and occupancy requirements, the use of a priority list and administration thereof. Staff advised that if the list becomes so large that it exceeds the number of available units, a lottery would be held of eligible applicants in accordance with family size and size of units.

(Mayor Duncan returned to the meeting at this time.)

The issue of waiver of MPDU requirements was noted by Councilmember Coyle.

Regulations refer back to the MPDU Ordinance itself which allows waivers in certain cases where other programs have the same goals and eligibility requirements in place or allows transfers of land

where equal number of units would be built. It is not an open-ended waiver.

Mayor Duncan indicated the law does not make specific reference to the Rockville Housing Authority but to the housing development agency or nonprofit corporation designated by the Mayor and Council. He asked that the Rockville Housing Authority be given copies of the regulations allowing them the opportunity to make any recommendations to the Mayor and Council.

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, the Moderately Priced Housing Regulations were approved for administration of Rockville's MPDU Ordinance.

Re: Adoption of Ordinance to grant Map Amendment Application M-59-92, Joseph A. Lynott, Jr., attorney for Marlo Furniture Company, Applicant.

This application requests zoning reclassification of unimproved property located at the southwest corner of Rockville Pike and Richard Montgomery Drive (carnival grounds), Rockville, Maryland, from the present O-1, Office Building, to the RPC, Rockville Pike Commercial, Zone.

Ordinance No. 01-93

Councilmember Krasnow commented that she still cannot separate approval of the zoning change from the proposal of Marlo Furniture. Some of the issues raised by Mr. Gewirtz during Citizens Forum do apply. The site is very close to the Metro and, while we are trying to

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encourage Metro use, this is an automobile-oriented use. She also expressed concern that the Richard Montgomery High School area will attract more crime with that type of use in addition to the increased traffic and presence of trucks. With the site's proximity to Town Center, she is not sure that Marlo is a friendly use which would encourage people to come up the Pike. This is a warehouse store, and the RPC Zone does not call for warehouse space. She will vote against the zoning reclassification.

Councilmember Coyle originally argued for this site's inclusion in the RPC Zone as he feels an 0-1 Zone use could have greater visual and traffic impacts. Marlo will still have to meet the requirements of the RPC Zone for aesthetics, setbacks, traffic, etc.

Councilmember Marrinan indicated that he has some of the same concerns mentioned by Councilmember Krasnow with respect to impact on the residential area and Richard Montgomery High School. However, since Montgomery County Public Schools did not oppose this request, he will vote in favor of the rezoning.

There is much greater design control in the RPC Zone than the O-1 noted Mayor Duncan. The Planning Commission and staff have more say with respect to screening and design review than in the current zone. This represents a major downzoning from a maximum FAR of 3.0 to 1.0, and the traffic projections are less than what would be generated by an office use.

As to whether the Fleet Street extension would be developed as part of the development on this site, Councilmember Coyle was advised by the City Manager that it has always been envisioned that the two would be developed concurrently.

Upon motion of Councilmember Coyle, duly seconded, with Councilmember Krasnow voting "no," Ordinance No. 01-93, the full text of which can be found in Ordinance Book No. 17 of the Mayor and Council, was adopted to approve the zoning reclassification of the property located at

the southwest corner of Rockville Pike and Richard Montgomery Drive (carnival grounds) from the O-1, Office Building, to the RPC, Rockville Pike Commercial, Zone.

Re:

Discussion and Instructions to Staff - Street Closing and Abandonment Application SCA-67-92, George Malusky II, Applicant.

This application requests the abandonment of a portion of an alley located between Woodland Road and Coleman Park Lane.

The City Manager stated that this application has been before the Mayor and Council for some time in order for staff to address the concerns of the neighborhood. The original staff recommendation was not to close this alley, and the Planning Commission subsequently recommended approval of the abandonment only if the traffic pattern of the alley is changed by extending the improved section of Coleman Park Lane to intersect with the northern end of the alley.

Investigation has revealed that the alleged illegal operation of a business is under control. Councilmember Krasnow has personally inspected the site. Given the cost involved to change the configuration and the fact that the illegal use has ceased, she advocates denying the application for abandonment.

It was noted that denying the application at this time would not preclude a refiling at some later time.

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, staff was instructed to prepare a resolution to deny Street Closing and Abandonment Application SCA-67-92, George Malusky II, Applicant.

in this matter.

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Re:

FYI/Correspondence

Alcoholic Beverage Sales at Bowling Allevs and Billiard Rooms

Mayor Duncan noted that the State recently amended its laws to permit the sale of beer and wine in county bowling alleys, and a technical change to the City's ordinance would bring it into compliance and allow city facilities to remain competitive. He received a call from an individual who expressed concern with the sale of beer in bowling alleys and also brought up another issue with respect to a harmless game wherein bowlers make quarter bets on different things. These harmless "bets" are now prohibited because of the sale of beer. Mayor Duncan advised that this resident is going to send a letter to our state representatives with a copy to the City requesting their assistance

In view of the recent change in the City's laws regarding age of patrons in billiard rooms, as requested by Breakers Billiards, Councilmember Krasnow questioned the introduction of alcohol into billiard rooms. It was suggested that this be more carefully reviewed.

City Attorney at Adopt-A-School

Councilmember Coyle noted that the City Attorney and his law firm, Venable, Baetjer and Howard, participate in the Adopt-A-School Program and the City Attorney recently escorted a group of students to the Supreme Court where they personally met with Justice Scalia.

Montgomery County Detention Center

An article in <u>The Washington Post</u> today regarding the Montgomery County Detention Center notes that the County is going to be looking at this issue next week. Councilmember Marrinan requested assurances that staff plans to monitor the County's proceedings and that the County fully understands the City's position. He also asked if the City Attorney has looked at the City's options

in relation to any action the County may take. The City Attorney responded that he has preliminarily reviewed the matter. Any suggestions he would have would be dependent upon what action the County takes. If they seek expansion, action would be taken consistent with prior permit approvals of the Planning Commission.

Mayor Duncan noted that the County review has been going on for some time. He has been involved from the Criminal Justice Coordinating Commission and the Corrections Committee. The County's Departments of Correction and Rehabilitation and Facilities and Services are putting together recommendations for the County Executive and County Council, and he hopes they come up with a long-term plan and strategy. Mr. Potter acknowledged the need for a new jail and there has been talk of a third site. Staff needs to check into this.

Councilmember Marrinan noted that the County is fully aware that it is the City's policy and position that we will not award them additional capacity at the current site. He asked if they are looking at additional options/alternate arrangements in the event the population exceeds current capacity.

In response to Councilmember Coyle, the City Attorney agreed to provide information as to the current agreement for the temporary buildings.

We have a presence before the County on this issue, and Mayor Duncan believes we should allow the County to complete their review. He is confident that the report will indicate that a new jail is needed, that the Rockville site is outdated and too small. A recommendation to construct a new jail somewhere in the County will hopefully be forthcoming.

Term Limits

The Mayor and Council discussed the recommendations received from the Board of

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Supervisors of Elections regarding term limits. It was subsequently agreed that the following four proposals would be presented for comment at a public hearing to be held on March 15:

- 1. No person shall serve in the same elected position for more than three (3) consecutive two-year terms.
- 2. No person shall serve in the same elected position for more than four (4) consecutive two-year terms.
- 3. No person shall serve in the same elected position for more than six (6) consecutive two-year terms.
- 4. No term limits shall apply to elected positions in the City of Rockville.

Mayor Duncan requested that a letter be sent to civic association presidents setting forth these proposals for comment. Councilmember Marrinan asked that a history of the terms served by former mayors and councilmembers be included as this will highlight that there has not been a problem in Rockville with respect to the number of terms served. Mayor Duncan agreed that it has not been a problem. However, as growth continues, there may be talk of raising salaries or making the elected positions full-time; that is when a problem may surface with respect to term limits. Councilmember Marrinan also requested that the results of the advisory referendum on term limits be included with the letter. Mayor Duncan asked that the City Clerk include this information as correspondence in the next brief book.

Re: New Business

Councilmember Krasnow indicated that the COG Environmental Policy Committee supports Greenlight, an energy-saving, non-regulatory program. This program encourages public schools and other government entities to replace lighting in buildings with more energy-efficient

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lighting. In Maryland, PEPCO is covering 51% of the costs involved. Councilmember Krasnow feels that this might be a good time for the City of Rockville to consider this given the renovations currently taking place at City Hall.

Councilmember Coyle noted that the City is now charging fees for open gym programs.

This issue should be reviewed again in connection with FY94's budget deliberations as there is a concern that fees discourage people from participating.

With respect to the earlier comments regarding trash pick-up, staff will prepare a memorandum for discussion at a future meeting. With the Request for Proposal on trash disposal options, it may be cost-effective to keep the twice a week trash pick-up.

Councilmember Krasnow reminded everyone that tomorrow, February 2, is Thanksgiving in February, a night where participating restaurants donate 10% of their gross receipts to the hungry in Montgomery County. This is a wonderful opportunity to eat out.

Re: Next Meeting

The next meeting of the Mayor and Council is a General Session on Monday, February 8, at which time the Mayor and Council will approve the creation of a new permit parking district and discuss budget issues for FY94.

Executive Session pursuant Re: Section 10-508(a)(1)(ii),(4) and (7) of State Government Article, Annotated Code of Maryland, to discuss personnel issues, to consider a proposal for a business to remain and expand in the city and to obtain legal from counsel advice regarding the proposal.

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Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the Mayor and Council, pursuant to Section 10-508(a)(1)(ii),(4) and (7) of the State Government Article, Annotated Code of Maryland, moved to convene in Executive Session at 9:32 p.m. to discuss personnel issues, to consider a proposal for a business to remain and expand in the city and to obtain legal advice from counsel regarding the proposal.

Re: Adjournment

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, the meeting was adjourned at 12:43 a.m., to convene again in General Session on Monday, February 8, 1993, at 7:30 p.m., or at the call of the Mayor.